



STATE BOARD OF EQUALIZATION

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BETTY T. YEE
First District, San Francisco

BILL LEONARD
Second District, Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
July 8, 2008

PRELIMINARY RECORD OF BOARD ACTION

The following is a preliminary record of Board actions taken at the July 8, 2008 Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

The Board's decision reflects only the issues resolved by the Board at the meeting. Issues resolved prior to the meeting are not reflected in this document.

If you would like specific information regarding items on this Preliminary Record of Board Action, please telephone Rose Smith at (916) 323-9656 or e-mail: Rose.Smith@boe.ca.gov Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Committee Meetings Please see Page 9, Item O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Board Meeting

Presentation of Retirement Resolution to David E. Hayes

A. Homeowner and Renter Property Tax Assistance Hearings
There were no items for this matter.

B. Corporate Franchise and Personal Income Tax Hearings

B1. John I. Alioto and Linda M. Alioto, 204713

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' Appeal Partially Granted/Denied	Dr. Chu	No
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	No
	Mr. Chiang/Ms. Mandel	Yes

B2. Michelle White-Sutherland, 396887

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied as to interest abatement and dismissed the remainder for lack of jurisdiction.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- C. Sales and Use Tax Appeals Hearings
These items were heard in the afternoon session.

There were no items for the following matters:

- D. Special Taxes Appeals Hearings
E. Property Tax Appeals Hearings
F. Public Hearings

G. Tax Program Nonappearance Matters – Consent**G1. Legal Appeals Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Hearing Notices Sent – No Response
 1. Wesley – Jessen Corporation, 298669 (OH)
 2. Agorra Building Supply, Inc., 168917 (CH)
 3. Alexander Charles Dunlap, 381588 (EH)
- Hearing Notice Sent – Appearance Waived
 4. The Playset Company, Inc., 347718 (EH)

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations No Final Determination on sub-items 2, 8 and 13	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Decisions
 1. Jane S. Bishop, 351914
 2. ~~John P. Fields and N. Carol Fields, 361390~~
 3. Santosh K. Maheshwari, 355153
 4. Donald B. Russell, 347413
 5. Annette Swanton, 343046
 6. Jonathan Yuan, 357296
- Decisions on Petitions for Rehearing
 7. John S. Ballard, 383699
 8. ~~Melody L. Beattie, 359059~~
 9. Vincent Castell, 383701
 10. Arturo A. Cueva, 384279
 11. Elisabeth J. De Telder-Collins, 389105
 12. Tennison Dong, 384280
 13. ~~Gregory B. Duro, 354992~~
 14. Richard Grant, 381468
 15. Benjamin Killen, 383404
 16. Eldo Klingenberg, 381471
 17. Mark Morgan, 378779
 18. Anthony Oropeza, 382832
 19. Richard Shirasawa, 384459
 20. Jintau Two, 377464
- Hearing Notice Sent – Appearance Waived
 21. Kathryn Landis, 377866

G3. Homeowner and Renter Property Tax Assistance Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Decisions
 1. Sergio Bayardo, 387980
 2. Scott B. Beckett, 378592
 3. Avelino F. Elido, 373282
 4. Nathaniel Kuhn, 391709
 5. Josephine Ellis Mitchell, 350002
 6. Mario Mondelli, 399436
 7. Jacqueline Jean Stratton, 406625
 8. Ellen Tanno, 386509
- Decisions on Petitions for Rehearing
 9. Maria DeJesus Lopez, 383536
 10. Yasmin Gonsouland, 341130

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Redetermination
 1. Montage Hotels and Resorts, LLC, 429393 (EA)
- Relief of Penalty/Interest
 2. Walters Wholesale Electric Co., 445720 (AA)
- Denials of Claims for Refund
 3. Inamed Medical Products Corporation, 445350 (GH)
 4. Farm Credit Leasing Services Corporation, 427401 (OH)
 5. L-3 Communications Electron Technologies, Inc., 298383 (AS)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
No Final Determination on sub-item 9	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Refunds
 1. Pioneer Electronics USA, Inc., 441804 (AA)
 2. Regency Enterprises Incorporated, 399333 (AC)
 3. Inamed Medical Products Corporation, 393629 (GH)
 4. Advanced Micro Devices, Inc., 314903 (GH)
 5. The Golden 1 Credit Union, 435530 (KH)
 6. Cargill, Incorporated, 436408 (OH)
 7. Arbonne International, Inc., 389008 (EA)
 8. Farm Credit Leasing Services Corp., 427401 (OH)
 9. ~~The Mercury Trust, 374580 (UT)~~
 10. Science Enrichment Services, Inc., 422840 (EA)
 11. Venturi Wireless, Inc., 420990 (GH)
 12. Wescom Credit Union, 435151 (AP)
 13. Earthlink Network, Inc., 341197 (AP)
 14. Americredit Financial Services, Inc., 424997 (OH)
 15. Fresno County Employees' Credit Union, 395733 (KH)
 16. Cig Financial, 434866 (EA)
 17. Earthlink, Inc., 341995 (GH)

There were no items for the following matters:

G6. Special Taxes Matters

G7. Special Taxes Matters – Credits, Cancellations, and Refunds

G8. Property Tax Matters

G9. Cigarette License Fee Matters

G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

H1. Legal Appeals Matters

➤ Petition for Rehearing

1. ~~Marcella Maria Rosales, 308469 (KH)~~

➤ Hearing Notices Sent – No Response

2a. Richard D. Hebb & Gregory L. Smith, 250398 (MT)

2b. H & S Coatings, Inc., 261373 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' Petition Denied	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

➤ Cases Heard But Not Decided

3. Sierra Textile Company, L.P., 301401 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

4. Herb's United Drugs, Inc., 217922, 439777 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petitions Partially Granted/Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

5. Juan M. Perez, 330117 (AA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Partially Granted/Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

➤ Petitions for Release of Seized Property

6. Bay Briar Shoppe, Inc., 405478 (ET)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

7. M & B Corporation, 417080 (ET)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

H2. Franchise and Income Tax Matters

➤ Decision

1. Shawn Mills, 402021

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Appeal Denied A \$750.00 frivolous appeal penalty was ordered.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Decision on Petition for Rehearing
2. Taiheiyo Cement USA, Inc., 332855

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Granted	Dr. Chu	No
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	No
	Mr. Chiang/Ms. Mandel	Yes

There were no items for the following matters:

- H3. Homeowner and Renter Property Tax Assistance Matters
- H4. Sales and Use Taxes Matters
- H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds
- H6. Special Taxes Matters
- H7. Special Taxes Matters – Credits, Cancellations, and Refunds
- H8. Property Tax Matters
- H9. Cigarette License Fee Matters
- H10. Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters

There were no items for the following matters:

- I1. Property Taxes Matters
- I2. Offers-in-Compromise Recommendations

C. Sales and Use Tax Appeals Hearings

- C1. Ferede Beyene Negash and Lielti Desta Mesfi, 336999 (GH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' Petition Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- C2. G & G Aviation, LLC, 315506 (UT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

C3. George Sanderson Sturges, Jr., 298532 (UT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

Chief Counsel Matters

J. Rulemaking

J1. Petition to Adopt a Regulation to Designate Qualified Veteran Itinerant Vendors as Consumers of Tangible Personal Property

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Continued to October Sacramento	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

There were no items for the following matters:

- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session**N. Consent Agenda**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

N1. Retirement Resolution

- David E. Hayes, Chief, Research and Statistics Section

N2. Approval of Board Meeting Minutes

- June 24, 2008

O. Adoption of Board Committee Reports and Approval of Committee Actions**O1. Legislative Committee**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Dr. Chu	Yes
	Mr. Leonard	Yes
For details see:	Ms. Steel	Yes
http://www.boe.ca.gov/legdiv/legmeetings08.htm	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

~~I. State Budget Negotiations~~**~~A. Discussion Item:~~**

~~Status of state budget negotiations and related revenue proposals to be administered by the Board.~~

II. 2008 Legislative Bills**A. Recommendation for Board Position:****1. AB 1759, Property Tax: Disaster Relief--Author: DeVore**

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopted as recommended by staff.	Dr. Chu	Yes
(Consent)	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

~~2. AB 2579, Property Tax: Base Year Value Transfers--Author: Niello~~**3. AB 3035, Property Tax: Welfare Exemption: Supplemental Assessment--Author: Huffman**

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopted as recommended by staff.	Dr. Chu	Yes
(Consent)	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

4. SB 1064, Property Tax: Disaster Relief--Author: Hollingsworth

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopted as recommended by staff.	Dr. Chu	Yes
(Consent)	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

5. SB 1562, Property Tax: Disaster Relief: Fruit and Nut Trees and Grapevines--Author: Hollingsworth

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopted as recommended by staff. (Consent)	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

6. SB 1641, Reports to the Legislature: Electronic Submission--
Author: Oropeza

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopted as recommended by staff. (Consent)	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

O2. Business Taxes Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein. For details see: http://www.boe.ca.gov/meetings/btc2008.htm	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

1. Informational Hearing: Nexus and Online Retailers; Recent Actions in New York and Texas

2. Sales and Use Tax Regulation 1602.5, *Reporting Methods for Grocers*

<u>DECISION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Approved and authorized for publication the proposed regulatory amendments.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

O3. Customer Services and Administrative Efficiency Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report on Item 1 and approved enhancements to the Sales and Use Tax online tutorial. For details see: http://www.boe.ca.gov/meetings/custsrv/custsrv08.htm	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/Ms. Mandel	Yes Yes Yes Yes Yes
<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report on Item 2 reaffirming the Board's June 24 action to establish when settlement offers may be submitted. For details see: http://www.boe.ca.gov/meetings/custsrv/custsrv08.htm	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/Ms. Mandel	No Yes Yes No Yes

O4. Property Tax Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein. For details see: http://www.boe.ca.gov/proptaxes/tcwplan08.htm	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/Ms. Mandel	Yes Yes Yes Yes Yes

1. Biopharmaceutical Industry Business Property Assessment Practices Guidelines

<u>DECISION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopted staff's recommendation as presented in Issue Paper 08-007.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/Ms. Mandel	Yes Yes Yes Yes Yes

P. Other Administrative Matters**P1. Executive Director's Report**

- a. Update on Multistate Tax Commission–Federation of Tax Administrators
- b. Report on time extensions to Alpine, Amador, El Dorado, Inyo, Mono and San Benito Counties to complete and submit 2008-09 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155.

P2. Chief Counsel Report

There were no items for this matter:

P3. Deputy Director's Report

There were no items for the following matters:

- a. Sales and Use Tax
- b. Property and Special Taxes

c. Administration

1. Fiscal Year 2009/2010 Conceptual Budget Change Proposals
 - Establishment of a Permanent U.S. Customs Program
 - Out-of-State Audit Workload
 - Establishment of Permanent Environmental Stewardship Programs
 - Natural Gas Surcharge Program
 - Flavored Malt Beverages
 - Cigarette and Tobacco Enforcement
 - Tax Litigation Defense
 - BOE-Digital Office
 - FISCAL Project Implementation
 - BOE Facilities Operations Augmentation
2. Headquarters Building Update
3. Budget Update 2008-2009

P4. Adoption of the 2008-09 Private Railroad Car Tax Rate –“CF”

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendation	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Not Participating

P5. Adoption of the 2008 Private Railroad Car Roll – “CF”

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendation	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes, except not participating in SBE Company Nos. 547, 634 and 6336
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Not Participating

P6. Adoption of the 2008 State-Assessed Property Roll – “CF”

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendation	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes, except not participating in SBE Company Nos. 467 and 480
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	:Not Participating

Q. Closed Session